

## **REMARKS**

### **Amendments**

#### ***Amendments to the Claims***

Applicant has amended the independent claims to define the distribution tool as identifying a client as an additional content provider that distributes data downloaded by the client from a content provider. Applicant has also amended the independent claims to specify that the distribution tool is applied to the data by the client prior to distributing the data to another client. No new matter has been added as a result of these amendments as they are supported, *intra alia*, in paragraphs 24-26 and 30, on pages 6-8 of the Specification as originally filed.

### **Rejections**

#### ***Rejections under 35 U.S.C. § 102(e)***

#### **Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40 and 43-50**

Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40 and 43-50 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,868,403 to Wiser et al (previously cited). Applicant respectfully submits that Wiser does not teach or suggest a distribution tool, or that a client can be identified as an additional content provider that distributes data to other clients as claimed in the amended claims.

In his Answer, the Examiner asserted that Applicant's claimed client could be interpreted as a content provider because "the client could simply play the music on their own player and allow another person to listen to it." Thus, the Examiner has equated Applicant's claimed client with a person. However, all of Applicant's independent claims are clearly directed toward the client as a computerized system. For example, claim 1 claims a computerized method for execution by a client. In addition, Applicant has clearly described the client as a system in the specification and distinguishes it from the user/person that operates it, e.g., client system 102 in Figure 1B as described in paragraphs 19-22 on pages 5-6 of the originally filed specification. Since people are not equivalent to computerized devices, it is improper to interpret Applicant's claimed clients

as people. Therefore, having a first person allow a second person listen to music on the first person's player is not equivalent to distributing data from one client to another client, as claimed by Applicant.

Furthermore, the Examiner asserted that Applicant's claimed distribution tool "could be interpreted as the tool the client used to download the content to their player." However, there is nothing in Applicant's specification that supports the Examiner's interpretation of Applicant's claimed distribution tool as being used to download content to a player. Although the Examiner is required to interpret claims broadly, the interpretation must be consistent with the teaching of Applicant's specification [MPEP 2110]. Therefore, the Examiner's interpretation is improper.

Finally, the Examiner is equating Applicant's distribution tool to Wiser's digital signature, Wiser's watermark, and/or Wiser's passport. However, Wiser does not even suggest that any of these elements identify a client as an additional content provider that distributes content to other clients as claimed by Applicant. In addition, Wiser does not even suggest that the digital signature, watermark, or passport is applied by a client to identify the client as an additional content provider prior to distributing content to another client.

Accordingly, Applicant respectfully submits that the invention claimed in claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40 and 43-50 is not anticipated by Wiser under 35 U.S.C. § 102(e) and respectfully requests the withdrawal of the rejection of the claims.

### **SUMMARY**

Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40 and 43-50 are currently pending. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Sue Holloway at (408) 720-8300 x3476.

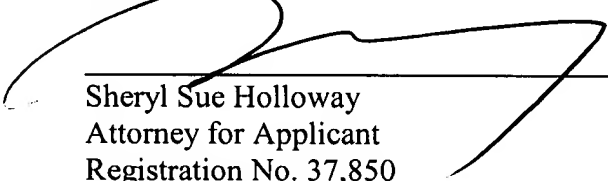
**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR  
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